BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.352 of 2023
and
C.M.P(MD) No.4343 of 2023

The Reliance General Motor Insurance Company
Represented by its Branch Manager,
Trichy. .....Appellant/ 3rd Respondent

-vs-

1. Deepak Kumar ... 1st Respondent/Petitioner
2. Mahesh .....2nd Respondent/1st Respondent
3. Manikandan ..... 3rd Respondent/2nd Respondent
4. Kesavaraj .... 4th Respondent/4th Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the decree and judgment dated 29.08.2013 made in M.C.O.P.No.463 of 2009 by the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Kumbakonam.

For Appellant : Mr.V.Sakthivel

For Respondents : Mr.A.Thiruvadikumar– For R1
: Mr.C.Padmaraj – for R2

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the award passed by the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Kumbakonam, in M.C.O.P.No.463 of 2009 primarily on the ground of liability.

2. According to the learned counsel appearing for the appellant/ Insurance Company, the accident has taken place, at about 10.30 a.m, on 24.03.2008. However, the Insurance Policy, which is marked as Ex.R1, has been issued with effect from 10.00 a.m on 26.03.2008. Therefore, according to the learned counsel appearing for the appellant, the Insurance Policy will come into force only from the date and time mentioned in the policy and it cannot have retrospective effect. The accident has taken place two days prior to the issuance of the policy, therefore, the policy does not cover the said accident. Hence, he contended that the Tribunal has not properly appreciated the date and time mentioned under Ex.R1- Insurance Policy.

3. Per contra, the learned counsel appearing for the respondent had relied upon the cover note issued by the Insurance Company which is marked

as Ex.P.20. The cover note was issued by the Insurance Company at 10.00 a.m on 24.03.2008, 30 minutes thereafter, the accident had taken place. According to the learned counsel appearing for the respondent, when the insured person has already paid the premium and the cover note has been issued, the policy would stand running from the time of the cover note. Therefore, it is his contention, that as far as the liability is concerned, the award of the Tribunal may be sustained.

4. I have carefully considered the submissions made by the learned counsel on either side.

5. A perusal of Ex.P.20 – Insurance Policy indicates that the premium has been paid at about 10.00 a.m, on 24.03.2008 and a Cover Note has been issued by the Insurance Company with effect from mid night, on 23.03.2008. However, the Insurance Policy has been issued under Ex.R1 with effect from 10.00 a.m., on 26.03.2008. It is not the case of the Insurance Company that the amount received by way of cheque from the insured person got dishonored and they have avoided the policy. However, cheque paid towards premium has been honoured and the Policy will have it force from the date and time mentioned in the cover note itself that is mid night, on 23.03.2008.

Therefore, this Court does not find any illegality or infirmity in the award of the Tribunal in fixing the liability upon the Insurance Company.

6. Accordingly, this Civil Miscellaneous Appeal stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

05.04.2023
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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Motor Accident Claims Tribunal/
Principal Subordinate Judge,
Kumbakonam, Thanjavur District.

2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

R.VIJAYAKUMAR,J.

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